

Appl. No. : 10/774,062
Filed : February 6, 2004

REMARKS

This paper is submitted in response to the Final Office Action mailed on September 14, 2006. Claims 1, 2 and 13-20 are pending in the present application. Claims 13-20 are allowed, and claims 1 and 2 are rejected as discussed below.

Claim Rejections Under 35 U.S.C. §101

Claims 1 and 2 stand rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1 and 2 of U.S. Patent No. 6, 376,177 (hereafter referred to as the "parent"). The Examiner found that the scope of the present claims is not distinguished from the claims of the parent based on the conclusion that the term "DNA" is limited to unlabeled DNA.

Applicant respectfully disagrees with the Examiner's interpretation of the general term "DNA" as denoting only unlabeled DNA and asserts that the specification provides adequate support for DNA samples that are labeled. Consequently, recitation of the term "DNA" in the instant claims distinguishes their scope over that of the parent claims, which recite the term "unlabeled DNA".

The scope of the instant claims is further distinguished over those of the parent by reciting a method comprising analyzing the DNA sample by near field Raman spectroscopy. In contrast, claims 1 and 2 of the parent recite a method comprising analyzing the DNA sample **associated with a SERS substrate** by near field Raman spectroscopy.

For the reasons presented above, claims 1 and 2 of the present application do not claim the same invention as that of claims 1 and 2 of the parent and Applicant respectfully requests the withdrawal of this rejection.

Conclusion

In view of the foregoing remarks, Applicant respectfully submits that this application is in condition for allowance and requests the same. If any issues remain, the Examiner is cordially invited to contact the undersigned in order to resolve such issues promptly.

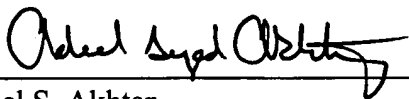
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Respectfully submitted,

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